



PROPOSED RULE-MAKING
(RCW 34.05.320)

CR-102 (7/23/95)

Agency: Public Disclosure Commission

- ☒ Original Notice
☐ Supplemental Notice
to WSR _____
☐ Continuance of WSR

Preposal Statement of inquiry was filed as WSR 00-16-137; or

☐ Proposal is exempt under RCW 34.05.310(4).

(a) Title of rule (Describe Subject):

WAC 390-13-010 Optional format for requests for lists of individuals.

Purpose: To eliminate the hold harmless agreement in section (7).

Other identifying information:

(b) Statutory authority for adoption:

RCW 42.17.370(1)

Statute being implemented:

RCW 42.17.260

(c) Summary:

The current rule provides for an optional format for affidavits from persons making requests for public records containing lists of individuals. The sample affidavit contains a provision regarding hold harmless agreements. This rule amendment would eliminate the hold harmless agreement.

Reasons supporting proposal:

Attorney General Opinion 1988 No. 12 provides that a public agency may not seek a hold harmless agreement from a requester of public records.

(d) Name of Agency Personnel Responsible for:

1. Drafting Doug Ellis
2. Implementation Doug Ellis
3. Enforcement Phil Stutzman

Office Location

PDC, 711 Capitol Way, Rm 403, Olympia
PDC, 711 Capitol Way, Rm 403, Olympia
PDC, 711 Capitol Way, Rm 403, Olympia

Telephone

(360) 664-2735
(360) 664-2735
(360) 664-8853

(e) Name of proponent (person or organization):

Public Disclosure Commission

- ☐ Private
☐ Public
☒ Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

(g) Is rule necessary because of:

Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No

Citation:

(h) Hearing location:

Commission Hearing Room
Evergreen Plaza Building
711 Capitol Way, Room 206
Olympia, WA

Date: October 24, 2000

Time: 9:00 a.m.

Assistance for persons with disabilities: Ruthann Bryant (360) 753-1111

NAME

Vicki Rippie

SIGNATURE

TITLE Executive Director

DATE

9/20/00

Submit written comments to:

Doug Ellis
Public Disclosure Commission
PO Box 40908
Olympia, WA 98504-0908
Fax (360) 753-1112 by October 20, 2000

DATE OF INTENDED ADOPTION:

October 24, 2000

CODE REVISER USE ONLY

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CD-19-121

(j) Short explanation of rule, its purpose, and anticipated effects:

This rule amendment would eliminate subsection 7 of the optional format for requests for lists of individuals. This rule would be consistent with AGO 1988 No. 12.

Does proposal change existing rules: X YES ☐ NO If yes, describe changes:

This rule amendment would eliminate the hold harmless agreement section in the optional format for requests for lists of individuals.

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ YES. Attach copy of small business economic impact statement.
A copy of the statement may be obtained by writing to:

X NO. Explain why no statement was prepared.

The implementation of this rule does not impact small businesses. It only applies to state agencies that provide lists of individuals.

(l) Does section 201, chapter 403, Laws of 1995, apply to this rule adoption? ☐ Yes X No
Please explain:

The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date JARRC has not made section 201 applicable to this rule adoption.

AMENDATORY SECTION (Amending WSR 96-05-001, filed 2/7/96)

WAC 390-13-010 Optional Format for Requests for Lists of Individuals. The use of a list of individuals obtained from an agency for commercial purposes is prohibited by RCW 42.17.260(((9))). ~~((The commission finds that the term "commercial purposes" has been interpreted by different agencies in inconsistent ways resulting in confusion and a lack of uniform administration of that statute.))~~ Therefore, the following format is adopted by the commission and authorized for use by agencies, at their option, to bring uniformity to the administration of that statute.

____ (Name of Agency) PUBLIC RECORDS ACCESS

STATE OF WASHINGTON)	AFFIDAVIT TO
)SS.	RELEASE
COUNTY OF _____)	PUBLIC RECORDS

(Name and Address)

having been duly sworn, deposes and says:

1. I have requested copies of the following public records:
2. I understand that Washington state law, RCW 42.17.260(((9))), prohibits the use of lists of individuals for commercial purposes.
3. I understand that the use for commercial purposes of said records may also violate the rights of the individuals named therein and may subject me to liability for such commercial use.
4. I understand that section 2 ~~((and for))~~ or 3 herein apply when I use said records for commercial purposes and when others use said records or copies of same for commercial purposes. I understand that I may be liable in either case.
5. I understand that "commercial purposes" means that the person requesting the record intends that the list will be used to communicate with the individuals named in the record for the purpose of facilitating profit expecting activity.
6. Therefore, I do hereby swear and affirm on oath and under penalty of law that I will not use said records for commercial purposes and that further, it is my affirmative duty to prevent others from using said records for commercial purposes.

~~((7. I do further swear and affirm on oath and under penalty of law that I will protect and hold harmless, including the cost of defending, the agency and its agents and employees from which I have obtained said records from any and all claims arising either directly or indirectly from the commercial use of said records.))~~

Signature

SUBSCRIBED AND SWORN to before me this__day of____, ((19))20__.

Notary Public in and for the state (([of the State])) of
Washington residing at_____.